

**JUNCTION CITY/GEARY COUNTY
METROPOLITAN PLANNING COMMISSION
BOARD OF ZONING APPEALS**

**October 8, 2009
7:00 p.m.**

Members Present

Brandon Dibben
Maureen Gustafson
Ken Mortensen
John Moyer
Mike Ryan
Mike Steinfort
Rick Ziegler

Members Absent

Staff

David Yearout
Jill Iwen

1. CALL TO ORDER AND ROLL CALL

Chairman Mike Steinfort called the meeting to order and noted a quorum present

2. APPROVAL OF MINUTES.

Chairman Steinfort noted the minutes of the July 9, 2009, meeting; the August 20, 2009, meeting and the September 10, 2009, meeting were up for approval. Mr. Moyer noted that on page 2, the minutes should reflect that Ms. Gustafson abstained because the applicant was her step-brother, not her step-son. Mr. Moyer moved to approve the minutes of all three meetings with the amended language in the September 10 minutes. Ms. Gustafson seconded the motion and it passed unanimously.

3. OLD BUSINESS

Item No. 1 – Case No. Z-8-2-09 - Consideration of amendment to the Planned Development District Final Development Plan for a portion of Olivia Farms.

Chairman Steinfort called the continuation of the public hearing open on the request of Paul Werner Architects & LandPlan Engineering, P.A., applicants, on behalf of the owner/developer, Fort Development, LLC, for an amendment to the Final Development Plan for a portion of the Planned Development District at Olivia Farms located immediately north of Rucker Road and east of Fort Avenue.

Mr. Yearout gave an overview of the staff report. Mr. Yearout indicated that there were only a couple of the items in the staff report that needed to be further discussed at the meeting because the applicant had indicated the other points were acceptable. In particular, the issue of the width of Lucy Court to support the on-street parking design and questions on expansion of the water lines were the primary topics to yet to be resolved. The other issues were either acceptable or would be included in the replat of the area.

Mr. Moyer asked for clarification on the second means of access to Olivia Farms, as the previous plans seemed to show an access point to Rucker Road from Lucy Court.

Mr. Yearout stated the currently approved plan shows an "emergency access" from Rucker Road to Lucy Court. However, if the construction shown on the new plan occurs, that access will no longer be available. The proposal is to use access from Rucker Road onto Cinder Court west of Fort Avenue at the point that access was used during the initial construction of the streets and utilities. This is on Lot 27 of Block 4, which is shown on the copy of the aerial included in the packet.

There being no further questions of staff, the Chair asked for comments from the applicant.

Paul Werner, Paul Werner Architects & LandPlan Engineers, P.A., stated that during construction the end of Lucy Court had been used as a second access point for construction vehicles, but that this was not intended to be an access road. At this point it is mainly an emergency entrance for emergency vehicles and that it would go away as development expanded. The permanent second access point would be where Wilma Way eventually connects with Walla Walla Road. The proposal for an emergency access onto Cinder Court is acceptable.

As for the items listed in the staff report, all but a couple were acceptable to the applicant. It was still requested that the paved area of Lucy Court be as shown on the plan submitted, which called for 24 feet of driving area with the parking stalls being 18 feet deep. Mr. Werner stated that there would be 6-foot sidewalks constructed, which is more than requires but would allow the additional space beyond the wheels for a full 20-foot parking depth.

Additionally, the developer did not believe it was appropriate to extend the water line south across Rucker Road. While he understood the idea, the costs would be prohibitive due to the rock in the area. The size of the line should be sufficient to accommodate the proposed construction. The relocation of the fire hydrant because of the redesign of the turnaround area at the end of Lucy Court is understood, but not to extend the water line further.

Staff indicated the main issue was the disagreement over the improvements within Lucy Court with the parking within the right-of-way. Staff noted that the driving lane minimum if this was within a parking lot would be 25 feet. However, the desire for a full 30-foot of drive width was to accommodate larger vehicles and assure access through the area for public service and emergency vehicles without being restrained from parked vehicles.

Mr. Werner stated the drive lane would be expanded to 25 feet, but would still request the 18-foot parking depth with the 6-foot sidewalks.

Mr. Werner also stated that the plan would be revised to show where trash dumpsters would be placed. The request to provide those was acceptable and the developer agreed that individual trash carts would not be good.

A question was raised concerning sufficiency in the number of parking stalls for both the proposed duplex units and the pool and park areas. Mr. Werner indicated that, under the City Zoning Regulations, a total of 112 parking spaces were required and the plan showed a total of 129 spaces. It was his opinion that sufficient spaces were provided.

Discussion returned to the new emergency access lane to be provided from Rucker Road to Cinder Court. In particular, concerns were raised as to the type of surfacing on the lane. Ideas from gravel to paved and control by way of a locked gate with emergency access only were raised. In the end, Mr. Werner indicated the lane would meet the requirements of the City. Mr. Ziegler asked how long this temporary solution may be in place. Mr. Yearout stated it would be until Wilma Way was extended to Walla Walla, which could be next year or may not happen for a number of years.

A question was raised concerning placement of utility lines under the paved area on Lucy Court and who would cover costs associated with future maintenance or other necessary access. Debate ensued concerning what happens in older areas of the City and how those "standards of operation" would apply in this situation. It was concluded that lines with the driving area would be considered normal operations, but all lines under sidewalks or parking areas would have the additional costs the responsibility of the developer or owner.

Ms. Gustafson questioned whether the turning radius at end of cul-de-sac was adequate for emergency vehicles. Mr. Werner stated that this had been researched during the planning stages for this development and felt comfortable that 25 feet of driving lane should be adequate for that purpose. By redesigning the parking controls to be mountable curbing, there should be no problems. Mr. Steinfort suggested that the frontage on Lucy Court to the drainage areas should be designated as no parking areas.

Mr. Moyer questioned whether an additional 5 feet of easement was still necessary on either side of Lucy Court. Mr. Yearout stated the right-of-way would be 80 feet, which would allow adequate space beyond the paved areas for the utilities.

Chairman Steinfort called for any further comments or questions from the audience. Being none, the Chair closed the public hearing and asked for further questions or comments from the Commission, or a motion.

Ms. Gustafson the amended Final Development Plan for Olivia Farms Planned Development District be approved as submitted, subject to the following conditions and requirements:

1. Lucy Court shall be included in the replat of this portion of Olivia Farms and shall provide a minimum of 80-feet of right-of-way. Within said right-of-way the developer shall install drive lanes for two-way traffic a minimum of 25 feet in width, shall provide parking stalls as shown on the Final Development Plan a minimum depth of 18 feet, and shall install sidewalks on each side of Lucy Court a minimum width of 6 feet. All costs associated with the removal and replacement of the pavement under the parking area or the sidewalks required due to the installation, repair or other necessary work on any utilities existing or constructed thereunder shall be paid by the developer or owner.

2. All costs associated with the modifications to the water and sewer services necessitated by the redesign of this area shall be paid by the developer or owner.
3. All costs associated with the modifications to the electric and gas services necessitated by the redesign of this area, including additions or modifications to the street lights, shall be paid by the developer or owner.
4. The replat of this portion of Olivia Farms shall indicate the modification to the building setbacks shown on the amended Final Development Plan.
5. The Final Development Plan shall indicate that trash dumpsters shall be provided and that all trash service shall be by a central system, with no individual trash containers permitted.
6. The temporary emergency access from Rucker Road to Lucy Court shall be relocated to a point on Lot 27, Block 4, which provides access from Rucker Road to Cinder Court.
7. The replat of this portion of Olivia Farms shall provide complete access control from Fort Avenue to all adjoining lots.
8. The replat of this portion of Olivia Farms shall provide complete access control from Lucy Court to all adjoining lots.
9. The amended Final Development Plan of this portion of Olivia Farms shall indicate that no on-street parking shall be permitted on Lucy Court adjoining Tract c or Tract D, Block 12.
10. The revised Restrictive Covenants and Development Agreement for the Planned Development District shall be provided prior to the publication of this ordinance.

Mr. Moyer seconded the motion and it passed unanimously.

Item No. 2 – Case No. FP-8-1-09, a replat of the portion of Olivia Farms covered by this zoning case to be named Olivia Farms 4th Addition.

Mr. Yearout advised that the previous action needed to be completed in order for the replat of this area to be completed. Staff recommends this case be continued to next month.

Mr. Ryan moved to continue Case No. FP-8-1-09, the Final Plat of Olivia Farms 4th Addition, a replat of the portion of Olivia Farms covered by the previous zoning case, to the November meeting. Ms. Gustafson seconded the motion and is passed unanimously.

Item No. 3 – Case No. TA-9-1-09 - Proposed Text Amendments to Junction City Zoning Regulations.

Chairman Steinfert called the continuation of the public hearing to order on the proposed text amendment to the Junction City Zoning Regulations concerning minimum parking space requirements for multiple-family residential developments to order.

Mr. Yearout reviewed the previous discussion at last month's meeting and stated that draft language had been prepared as requested by the Planning Commission. In short, the proposed language establishes a minimum of 1.25 spaces for efficiency apartments and 1.75 spaces for all other three-family and multiple-family residential developments. In addition, standards are proposed regarding the minimum right-of-way requirements, parking stall size requirements, paving standards and a number of other issues.

Mr. Ziegler asked how 1.25 spaces would be determined. Mr. Yearout stated the number is based on the number of units in a structure, with current language stating that "partial" spaces are rounded up to the next whole number. In other words, a project with 10 efficiency apartments that would figure 12.5 spaces would be required to build 13 spaces.

Mr. Steinfert asked for a definition of an efficiency apartment. Mr. Yearout and several members stated it generally was a one room dwelling with a bathroom.

Ms. Gustafson stated she was not convinced yet that reducing the number of spaces is the right thing to do, but personally favors the proposal of allowing construction of the parking within the right-of-way provided adequate standards and other safeguards can be established.

Chairman Steinfert opened the public hearing for comments from the audience.

Clint Junghans presented the photos again he had taken of several sites within the City where existing parking lots serving multiple-family housing complexes have vacant spaces. He hoped the commissioners had taken the time to drive around the community to see the parking situation for themselves. He believes this amendment would also allow for adequate parking spaces and provide more green space.

Gary Junghans stated his support of the amended parking regulation. He stated that the new amendment would help in the construction of affordable housing from a builder's perspective as it would reduce the cost of concrete needed to provide adequate parking. He also felt it would help to diminish the 'sea of asphalt' and help to promote green space.

Mr. Steinfert suggested that there be a minimum lot width written into the amendment. Mr. Yearout agreed that this could be added. Mr. Mortensen suggested a two (2) lot minimum.

Mr. Ziegler stated his concern about being specific enough in the regulation and making sure that the city takes care of what happens as new development occurs.

Mr. Yearout suggested that the perhaps verbiage should be added that the landowner be held accountable for ongoing maintenance, as it would apply to utility repair and replacement, especially where the parking and sidewalks might be

constructed over existing utility lines. Mr. Mortensen asked if this would need to be re-drafted and continued to the next meeting. Mr. Yearout stated it could be done in that manner or it could be approved with the condition of the amended verbiage.

There being no further comments from the public, the Chair declared the public hearing closed and asked for comments, questions or a motion from the Commission.

Mr. Ziegler moved to keep the regulation at 2 parking spaces per dwelling unit, allow parking within the right-of-way, and require no less than 92 feet of frontage or two lots per multi-family unit. The motion died per lack of second.

Mr. Mortensen moved to recommend approval of the text amendment, subject to the changed language as follows:

Section 420.020, GENERAL PROVISIONS:

- F. Multiple-Family Exceptions. The required accessory off-street parking spaces for three-family and multiple-family residential dwellings may be provided within the public right-of-way of the adjoining streets, except arterials streets and certain collector streets as determined by the City Engineer, fronting on the lot developed for such three-family or multiple-family residential dwellings. No density bonus shall be allowed if the public right-of-way is used in meeting the parking demands of the project. The balance of the lot used for the housing units shall be landscaped and maintained as open space. The parking spaces constructed in the public right-of-way shall be subject to the following:
1. Minimum Lot Width. In order for consideration of utilizing public right-of-way to provide parking for a three-family or multiple-family residential dwelling, the lot on which such dwelling will be constructed must have a minimum of 92 feet of frontage on a public street.
 2. Minimum Right-of-Way. A minimum of 80 feet of right-of-way for the public street must exist before the exception of providing parking within the right-of-way can be considered. Dedication of additional right-of-way shall not be permitted to meet this requirement unless the property is included in a replatting that includes land on either side of the property and land on the other side of the street so that the driving lanes remain centered in the right-of-way and do not change is width. Unique and unusual circumstances due to the property being on a frontage road or across from some other easement or reserve that can not be otherwise developed may be allowed to provide adequate right-of-way by separate dedication at the discretion of the Zoning Administrator, subject to appeal to the Board of Zoning Appeals.
 3. Parking Space Design. Each parking space provided within the right-of-way shall be a minimum of 9 feet by 20 feet in size in order to assure adequate depth to minimize parked vehicles from

encroaching into the drive lanes. The design plans for parking spaces provided within the public right-of-way shall be approved by the City Engineer before building permits or any other construction shall commence on the lot.

4. Sidewalks. There shall be sidewalks meeting the current minimum standards of the City along the street frontage of all public streets abutting a property on which a three-family or multiple-family residential dwelling is constructed. The sidewalk location within the public right-of-way shall be determined by the City Engineer.
5. Design. The design layout of parking provided within the public right-of-way shall be determined by the City Engineer. In general, the public street shall be centered in the right-of-way and constructed to the width the either exists in the current street or shall meet the minimum required for the classification of the street. The sidewalks shall be constructed abutting the outer edge of the public right-of-way. The parking spaces shall be between the flow line of the bottom of the curb and the inner edge of the sidewalk.
6. Surfacing. All parking areas provided within the public right-of-way shall be graded to maintain appropriate drainage within the remainder of the street system and surfaced with asphaltic concrete or Portland cement concrete the same as the remainder of the street. In the event the street in question is a brick street, the paving shall be determined by the City Engineer.
7. Maintenance. All parking areas provided within the public right-of-way shall be the sole maintenance responsibility of the owner(s) of the three-family or multiple-family residential dwellings. Maintenance shall include repairs to the curbing and surfacing to keep the spaces generally smooth and free of plant growth in cracks, and shall include any snow or ice removal deemed necessary by the owners. The City shall be responsible for maintenance in the drive lanes in the same manner it is responsible for maintenance, including snow removal, for public streets.
8. Paving over Utilities. All existing or proposed utilities that are common for placement is the normally unpaved area of the public right-of-way that are covered by parking as provided in this section shall be permitted subject to the requirement that all additional costs for pavement removal and replacement due to subsequent repairs, maintenance or other modifications necessary for the continued operation of said utilities shall be the sole and complete responsibility of the owner(s) of the housing served by the parking. The costs shall be separated from the total costs for such work and shall be billed directly to the owner(s) of the housing in accordance with the provisions outlined in the agreement required herein.

9. Agreement. Prior to this provision being permitted, the owner(s) of any three-family or multiple-family residential dwelling proposing to construct parking within the public right-of-way shall execute a Development Agreement with the City that specifies the requirements outlined herein, as well as other provisions determined appropriate by the City, including hold-harmless language for the use of such public lands. No building permits shall be issued until such agreement is executed.

Section 420.030, REQUIRED SPACES:

1. *Dwelling and Lodging Uses*
 - c. Three-family and multiple-family dwellings: At least one and one-quarter (1.25) parking spaces per efficiency or one-bedroom unit; at least one and three-quarter (1.75) parking spaces per unit providing two-bedrooms or more. Spaces may be provided within the public right-of-way, subject to the provisions of Section 420.020(F). No increased density of dwelling units per lot shall be permitted by the use of the public right-of-way to meet the parking demands.

The motion was seconded by Mr. Moyer and it passed unanimously.

Item No. 4 – Consideration of Bylaws for the Metropolitan Planning Commission.

Chairman Steinfort opened discussion on the Bylaws for the Metropolitan Planning Commission. This item has been reviewed by the Commission for the past several months. He asked for a review by staff.

Mr. Yearout stated he had discussed the question of the degree of disclosure required when a conflict of interest is in place with the City Attorney, especially concerning the business relationship of Commission members with applicants. The City Attorney confirmed that the only acknowledgement needs to be that a business relationship prevents participation. This was acceptable to the members.

Mr. Yearout pointed out the language concerning participation of the Chair during monthly meetings. This will allow the Chair to vote, make motions and otherwise be involved in the cases, rather than simply run the meeting and vote to break a tie.

Mr. Ziegler moved to approve the Bylaws for the Metropolitan Planning Commission. The motion was seconded by Mike Ryan and carried unanimously.

4. NEW BUSINESS

Item No. 1 – Case No. VC-10-1-09 - Consideration of petition to vacate the platted building setback line on property at 1411 Settgest Circle.

Chairman Steinfert called the public hearing to order on the petition of Don R. Moore, owner, praying for the vacation of the building setback line on Lot 7, Block 8, Lawndale Plaza Replat No. 1, a subdivision in Junction City, Kansas, generally located on the east of Westwood Boulevard and south of Settgest Circle and located at 1411 Settgest Circle.

Mr. Yearout stated the request would simply remove the setback restrictions shown on the face of the plat from this lot. The setbacks established by the Zoning Regulations would then apply. Mr. Moore is then requesting a variance to allow the construction of an addition onto his garage, which will be heard separately by the Board of Zoning Appeals. But the first step will be to remove the provisions on the plat by this vacation. Staff recommended approval of the vacation.

Chairman Steinfert opened the public hearing and called for comments from the audience.

Mr. Don Moore stated his intent to build an additional stall onto his garage and his need for the vacation of building setback to do so. He would not be building a second garage, just adding a second stall onto the existing attached garage.

There being no further comments, the Chair closed the public hearing and asked for comments, questions or a motion from the Commission.

Mr. Ziegler moved to recommend approval of the petition to vacate the platted building setback line for the property located at 1411 Settgest. The motion was seconded by Ms. Gustafson and it carried unanimously.

RECESS AS METROPOLITAN PLANNING COMMISSION

Mr. Ryan moved to recess as the Metropolitan Planning Commission and convene as the Board of Zoning Appeals. Mr. Moyer seconded the motion and it passed unanimously.

CONVENE AS BOARD OF ZONING APPEALS

1. NEW BUSINESS

Item No. 1 – Public Hearing on Case No. BZAV-10-1-09 – Request to grant variance in the setbacks for an attached garage on property at 1411 Settgest Circle.

Chairman Steinfert called the public hearing to order on the request of Don R. Moore, owner, for a variance in the setback requirements on Lot 7, Block 8, Lawndale Plaza Replat No. 1, a subdivision in Junction City, Kansas, generally located east of Westwood Boulevard and south of Settgest Circle and located at 1411 Settgest Circle. This is to allow the construction of an addition onto the garage.

Mr. Yearout explained that this was the second step in the process started in vacation case just heard to allow the encroachment into the setback area for the addition to the garage.

Chairman Steinfert opened the public hearing and called for comments from the audience. None were made and the Chair declared the public hearing closed and asked for comments or a motion from the board.

Mr. Ziegler moved that the petition to grant a variance on the setbacks be approved in the amount needed to allow the addition of no more than 16 feet onto the existing building. The motion was seconded by Mr. Moyer and it carried unanimously.

Item No. 2 – Case No. BZACU-10-1-09 – Request for a Conditional Use Permit to allow a Day Care Home at 2420 Deer Trail

Chairman Steinfert called the public hearing to order on the request of Nicole Buckwalter, owner, for a Conditional Use Permit to allow the operation of a Licensed Day Care Home for not more than 10 children at her home at 2420 Deer Trail, Junction City, Kansas.

Mr. Yearout stated this case was being requested for a continuance by the applicant. Staff has learned that a “catch-22” situation exists between the State requirements and those of Fort Riley regarding the operations in the Family Child Care program through the Fort. Staff has scheduled a meeting with representatives from the Fort, the Health Department and the Fire Departments to create a solution that will allow the small child care operations to continue under these programs without the necessity of a zoning approval process. That meeting is schedule next week and a plan should be presented for consideration at the November meeting.

Nicole Buckwalter stated she concurs with the staff comments. She plans on an operation that will comply with the requirements of the military and understands the situation with the conflict between the regulations. She is willing to wait until this matter is resolved.

Mr. Moyer moved to continue this case until the November meeting. This motion was seconded by Ms. Gustafson and it carried unanimously.

ADJOURN AS BOARD OF ZONING APPEALS

Ms. Gustafson moved to adjourn as the Board of Zoning Appeals and reconvene as the Metropolitan Planning Commission. Mr. Zeigler seconded the motion and it carried unanimously.

RECONVENE AS METROPOLITAN PLANNING COMMISSION

5. GENERAL DISCUSSION

Item No. 1 – Draft proposal for Manufactured Home Code for Geary County

Mr. Yearout explained the information contained in the proposed Manufactured Home Code for Geary County and gave overview of the changes in construction standards made by the federal government. He stated this draft has been submitted for discussion to the Board of County Commissioners but no date has been set for action.

Mr. Steinfort questioned who would do the annual inspections suggested in the draft. Mr. Yearout stated that Code Enforcement would perform the inspections.

Mr. Ziegler questioned the ten year rule the City has in place and whether or not the county should follow suit. Mr. Yearout stated there may be problems in enforcing this type of rule in a court of law as it is a sliding, arbitrary date. He further stated that discussion is already in place that may update the cities regulation to match the proposed county regulation.

Ms. Gustafson brought up how the definition of manufactured home and modular home is determined. Mr. Yearout stated it was based on whether or not the chassis the home was delivered to the building site on remained attached to the home.

Mr. Zeigler questioned what acreage would be required to set this type of home in the county. Mr. Yearout stated right now the regulations state the minimum would be a 3 acre tract.

Mr. Moyer asked how the older homes already existing on lots would be handled in case of a sale. Mr. Yearout stated these properties would be grandfathered as a permitted use. Ownership can change within the grandfather clause as long as the location remains the same.

Mr. Steinfort asked if it was known the number of manufactured homes in the county that would need to be inspected. Mr. Yearout stated this information could be obtained from the appraiser's office.

Ms. Gustafson asked how the existing homeowners would be made aware of the regulations. Mr. Yearout stated a general notification process would be followed.

Mr. Yearout stated that this code would not be a cure all, but would give the county a law of record to use to enforce violations if needed.

Mr. Steinfort inquired what the fee would be for the inspection or permit/license. Mr. Yearout stated it was missing from the draft, but that the fee would have to be set by the County Commission. Other counties have started at \$10.00. Several members stated this was not enough to offset the costs and it should be higher.

Mr. Steinfort asked if a public hearing would be required for this adoption of this code. Mr. Yearout stated it was not required, but that the County Commission may request that one be held. Staff would keep the Commission advised of future action.

Item No. 2 – Set Date for Work Session/Kick-off Meeting on Update of Regulations for County

Discussion was held on setting the Kick-off Meeting on the update to the Geary County Zoning and Subdivision Regulations as a work session; tentatively targeted for October 22, 2009, at the Geary County Health Department meeting room at 7:00 p.m. Staff stated there is a need to identify “stakeholders” to invite to the meeting, as well as understanding the format and approach to this meeting.

It was stated that October 22 was the same date at the Junction Function and after checking calendars, the date for the meeting was moved to Thursday, November 5, 2009 at the same time and location. Staff stated that notices would be mailed as soon as the location and dates can be confirmed due to the change.

Item No. 3 – Discussion on Zoning Regulation requirements for Day Care operations.

Mr. Yearout noted that, as stated in the case for the Conditional Use Permit, the manner in which day care operations are addressed within the Zoning Regulations has developed into a rather complicated issue. Staff has initiated contact with the Army regarding the standards and requirements the military places on these operations and anticipate a meeting with all interested parties, including the Health Department soon. This may result in subsequent revisions to the Zoning Regulations.

Mr. and Mrs. Hargraves, developers of the Doc Hargraves Addition, stated they support the approach Mr. Yearout is working on as it would work nicely in their development, which has covenants that place restrictions on some home-based businesses.

Mr. Yearout stated that he believed the community has set a policy that the limited day care is acceptable as a permitted use in the residential areas, but that should be limited to no more than six children. The general intent is to try to accommodate the mandate of the military to have the day care operations licensed by the State, but still limited to no more than six children. Discussion was had that the regulations could include verbiage that would limit the occupancy to six children and perhaps the certification from the military. Staff intends to bring language to the next meeting for consideration as an amendment to the regulations.

Item No. 4 – Other Items.

Mr. Yearout stated the intent of the Commission to hold an appreciation dinner for the current and immediate past members of the Metropolitan Planning Commission and Board of Zoning Appeals members. After discussion by the Commission, the date was set for November 10, 2009, at the Opera House in Junction City. Invitations will be sent in the next week or so.

6. ADJOURNMENT

Mr. Ryan moved to adjourn at 9:47 p.m. Ms. Gustafson seconded the motion and it carried unanimously.

PASSED AND APPROVED THIS _____ DAY OF _____, 2009

Mike Steinfort, Chairman

ATTEST:

David L. Yearout, AICP, Secretary